

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY FREDIANELLI,

No. C-11-3232 EMC

Plaintiff,

v.

STEPHAN JENKINS, *et al.*,

Defendants.

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION (1) FOR PERMISSION TO
APPEAR BY TELEPHONE; AND (2)
FOR AN EXTENSION OF TIME TO
OPPOSE DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

(Docket Nos. 191-92)

Plaintiff Anthony Fredianelli has filed a motion in which he asks (1) for permission to appear by telephone for all hearings and (2) for an extension of time to oppose the Third Eye Blind Defendants' motion for summary judgment, currently set for hearing on January 3, 2012. The Court **GRANTS** in part and **DENIES** in part the requests for relief.

As to the first request for relief, the Court shall permit Mr. Fredianelli to make a telephonic appearance for any case management or status conference. However, Mr. Fredianelli shall be required to make an in-person appearance for the hearing on the motion for summary judgment. In addition, Mr. Fredianelli shall be required to make an in-person appearance for the final pretrial conference and for trial. For any other hearing before this Court on a motion filed by a party (whether Mr. Fredianelli or another party in this action), Mr. Fredianelli must ask for permission to appear by telephone on a case-by-case basis. To the extent Mr. Fredianelli asks for permission to be excused from an in-person appearance for a settlement conference, that request is denied. Mr. Fredianelli is required to appear at any settlement conference.

1 As to the second request for relief, Mr. Fredianelli does not clearly identify any reason as to
2 why he is need of additional time to oppose the motion for summary judgment. However, given that
3 Mr. Fredianelli is proceeding pro se, the Court shall give him additional time to prepare an
4 opposition. In his proposed order, Mr. Fredianelli asks that he be given until December 28, 2012, to
5 file his opposition. The Court grants this request. Mr. Fredianelli shall have until **December 28,**
6 **2012**, to file (and serve) his opposition (including any supporting documents). The Third Eye Blind
7 Defendants shall then have until **January 7, 2013**, to file (and serve) their reply brief. **The hearing**
8 **on the motion for summary judgment is continued from January 3, 2013, to January 24, 2013.**
9 **The hearing time shall remain at 1:30 p.m.**

10 Because Mr. Fredianelli is proceeding pro se, the Court provides him with some general
11 guidance regarding the summary judgment process.


12 The Third Eye Blind Defendants have made a motion for summary judgment by which they
13 seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal
14 Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you must do in order
15 to oppose a motion for summary judgment. Generally, summary judgment must be granted when
16 there is no genuine issue of material fact – that is, if there is no real dispute about any fact that
17 would affect the result of your case, the party who asked for summary judgment is entitled to
18 judgment as a matter of law, which will end your case. When a party you are suing makes a motion
19 for summary judgment that is properly supported by declarations (or other sworn testimony), you
20 cannot simply rely on what your complaint says. Instead, you must set out specific facts in
21 declarations, depositions, answers to interrogatories, or authenticated documents, as provided in
22 Rule 56(c), that contradict the facts shown in the defendants' declarations and documents and show
23 that there is a genuine issue of material fact for trial. If you do not submit your own evidence in
24 opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is
25 granted in favor of the defendants, your case will be dismissed and there will be no trial. Mr.
26 Fredianelli is advised to read Rule 56 of the Federal Rules of Civil Procedure and *Celotex Corp. v.*
27 *Catrett*, 477 U.S. 317 (1986) (holding that party opposing summary judgment must come forward
28 with evidence showing triable issues of material fact on every essential element of his claim). In

1 ruling on a motion for summary judgment, the evidence must be admissible as presented or in a form
2 that would be admissible in evidence. Mr. Fredianelli is cautioned that failure to file an opposition
3 to the Third Eye Blind Defendants' motion for summary judgment may be deemed to be a consent
4 by him to the granting of the motion, and granting of judgment against him without a trial. *See*
5 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (per curiam); *Brydges v. Lewis*, 18 F.3d 651,
6 653 (9th Cir. 1994). Mr. Fredianelli is also advised to consult the Court's handbook for pro se
7 litigants available on the Court's website.

8 This order disposes of Docket Nos. 191-92.

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10 IT IS SO ORDERED.

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12 Dated: December 10, 2012

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EDWARD M. CHEN
United States District Judge